

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Vera Correia and Armando Jorge Correia (w/h)

(b) County of Residence of First Listed Plaintiff Wartren County, NJ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Richard A. Godshall, Esq., Ostroff Injury (610) 279-700
518 E. Township Line Road, Suite 100, Blue Bell, PA 19422

DEFENDANTS

Keen Lake Camping & Cottage Resort, Inc., et al

County of Residence of First Listed Defendant Wayne County, PA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332

Brief description of cause:
Diversity of Citizenship

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8/27/19

SIGNATURE OF ATTORNEY OF RECORD

Richard Godshall

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

VERA CORREIA and
ARMANDO JORGE CORREIA (w/h)
107 Gaisler Road
Blairstown, NJ 07825,

Plaintiffs

vs.

KEEN LAKE CAMPING & COTTAGE
RESORT, INC.
155 Keen Lake Road
Waymart, PA 18472

and

KEEN LAKE, INC., individually and d/b/a
KEEN LAKE CAMPING & COTTAGE
RESORT
155 Keen Lake Road
Waymart, PA 18472

and

KLCCR, LLC, individually and d/b/a
KEEN LAKE CAMPING & COTTAGE
RESORT
155 Keen Lake Road
Waymart, PA 18472

and

JENNIFER WERTZ, a.k.a.
JENNIFER KEEN, individually and d/b/a
KEEN LAKE CAMPING & COTTAGE
RESORT
155 Keen Lake Road
Waymart, PA 18472,

Defendants

Civil Action Complaint

1. Plaintiff, Vera Correia (hereinafter, “Plaintiff”), is an adult individual who resides

at the above referenced address, in Warren County, New Jersey.

2. Plaintiff, Armando Jorge Correia (hereinafter, "Plaintiff Husband"), is an adult individual who resides at the above referenced address, in Warren County, New Jersey.

3. At all times relevant to this action, Plaintiff, Vera Correia and Plaintiff, Armando Jorge Correia (hereinafter collectively, "Plaintiffs") were and continue to be wife and husband.

4. Defendants, Keen Lake Camping & Cottage Resort, Inc. is a Pennsylvania corporation, with a principal place of business at the above referenced address in Wayne County, Pennsylvania.

5. Defendants, Keen Lake, Inc., individually and d/b/a Keen Lake Camping & Cottage Resort, is a Pennsylvania corporation, with a principal place of business at the above referenced address in Wayne County, Pennsylvania.

6. Defendants, KLCCR, LLC, individually and d/b/a Keen Lake Camping & Cottage Resort, is a Pennsylvania limited liability company, with a principal place of business at the above referenced address in Wayne County, Pennsylvania.

7. Defendant, Jennifer Wertz, a.k.a. Jennifer Keen, individually and d/b/a Keen Lake Camping & Cottage Resort, is an adult individual who resides and/or has a principal place of business at the above referenced address, in Wayne County, Pennsylvania.

8. Neither Plaintiff nor Plaintiff Husband is a resident of the same state as any of the Defendants and the value of the matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332. Therefore, this Court has jurisdiction of this action pursuant to complete diversity of citizenship among the parties under 28 U.S.C. § 1332.

9. Upon information and belief, at all times relevant hereto, Defendants, individually, jointly and/or severally, directly and/or by and through their duly authorized agents, ostensible

agents, servants, owned and operated a campground and vacation resort business, known as Keen Lake Camping and Cottage Resort (hereinafter, the “Premises”) located at 155 Keen Lake Road, Waymart, Wayne County, Pennsylvania.

10. Upon information and belief, at all times relevant hereto, Defendant, Jennifer Wertz, a.k.a. Jennifer Keen, owned all or part of the real estate upon which the aforesaid campground and resort was operate.

11. At all times relevant hereto, Defendants, individually, jointly and/or severally, directly and/or by and through their respective agents, ostensible agents, servants, borrowed servants, workmen, employees and/or subcontractors, acting within the scope and authority of such relationships owned, possessed, managed, modified, designed, maintained and/or controlled the facilities located within and upon the Premises, including the buildings, cottages, cabins, bathhouses, shower facilities, and bathrooms, and their infrastructures, water heaters, ventilation systems, insulation, heating systems, air conditioning systems, combustion appliances and apparatuses, gas and propane systems, and indoor air quality.

12. On or about September 2, 2017, Plaintiff was upon the Premises as a paying guest of Defendants’ resort.

13. At all times material hereto, Plaintiff was a business invitee on the Premises and was owed the highest duty of care by the Defendants.

14. At the aforesaid time and location, Plaintiff was in the shower area of one of the Premises’ bathhouses, when she suddenly and without warning began to feel ill, and collapsed in the bathhouse.

15. Immediately following Plaintiff’s collapse, Plaintiff was transported by emergency personnel to a hospital for emergency care where she was diagnosed as having carbon monoxide

poisoning.

16. Upon information and belief, less than 24 hours prior to Plaintiff's collapse, emergency personnel had responded to the Premises due another campground guest becoming ill and collapsing in the aforesaid bathhouse.

17. Shortly following Plaintiff's collapse, emergency personnel who had responded to the scene, tested the air quality in the bathhouse, identified excessively high levels of carbon monoxide and determined the exhaust system for a heater was improperly and negligently installed, causing carbon monoxide to collect and accumulate within the bathhouse.

18. Upon information and belief, Defendants, individually, jointly and/or severally, directly and/or by and through their respective agents, ostensible agents, servants, borrowed servants, workmen, employees and/or subcontractors, acting within the scope and authority of said relationships with Defendants, improperly, negligently and carelessly designed, installed, constructed, maintained and/or controlled the aforesaid heater and its exhaust system so as to create and/or permit carbon monoxide to collect and accumulate in the bathhouse.

19. The aforesaid heater and its exhaust system were at all times relevant owned, possessed, managed, constructed, maintained, designed and/or controlled by Defendants, individually, jointly and/or severally, directly and/or by and through their respective agents, ostensible agents, servants, borrowed servants, workmen, employees and/or subcontractors, acting within the scope and authority of their respective relationships with Defendants.

20. At the time of Plaintiff's poisoning, and for a long and excessive time prior thereto, Defendants, individually, jointly and/or severally, directly and/or by and through their respective agents, ostensible agents, servants, borrowed servants, workmen, employees and/or subcontractors, acting within the scope and authority of said relationships with Defendants

negligently and carelessly possessed, managed, modified, controlled and/or maintained the Premises so as to allow carbon monoxide to collect and accumulate in the bathhouse meant for business invitee use.

21. The carbon monoxide in the bathhouse that poisoned Plaintiff not visible, detectable or discernible to business invitees, such as Plaintiff using the bathhouse.

22. At the aforesaid time and place, the collection and accumulation of carbon monoxide within the bathhouse was an unreasonably dangerous condition of the Premises, directly caused by Defendants' individual, joint and/or several negligence and carelessness.

23. The dangerous condition in the aforesaid area constituted a reasonably foreseeable risk of harm for business invitees such as Plaintiff.

24. The Defendants, individually, jointly and/or severally, directly and/or by and through their respective agents, ostensible agents, servants, borrowed servants, workmen, employees and/or subcontractors, acting within the scope and authority of said relationships created and/or caused the existence of the dangerous condition resulting in Plaintiff's poisoning it.

25. The Defendants had actual and/or constructive notice of the existence of the dangerous condition for a sufficient time prior to Plaintiff's poisoning to have taken measures to correct it and/or to properly warn business invitees such as Plaintiff of it.

26. At no time relevant to Plaintiff's poisoning was there any warning or notice to business invitees such as Plaintiff of the existence of the hazardous condition created by the carbon monoxide.

27. Defendants' negligence and carelessness, and the resulting dangerous condition of the Premises were the direct and proximate cause of Plaintiff's poisoning and resulting illness and injuries.

28. At all times material hereto, Plaintiff was exercising due care and caution for her safety and in no manner contributed to her poisoning or her resulting illness and injuries.

29. Defendants' negligence and carelessness, and the resulting hazardous condition of the Premises were the direct and proximate cause of Plaintiff's poisoning and resulting illness and injuries.

30. As a direct and proximate result of the individual, joint, and/or several negligence and carelessness of Defendants, the resulting hazardous condition, and Plaintiff's subsequent poisoning, Plaintiff suffered and/or may continue to suffer severe and potentially permanent health conditions, physical illness and injuries, severe pain, anxiety, depression, emotional distress, embarrassment, loss of life's pleasures and enjoyment of life.

31. As a direct and proximate result of the individual, joint, and/or several negligence and carelessness of Defendants, the resulting hazardous condition, Plaintiff's subsequent poisoning and her illness and injuries, Plaintiff has undergone and/or may in the future undergo reasonable and necessary medical treatments.

32. As a direct and proximate result of the individual, joint, and/or several negligence and carelessness of Defendants, the resulting hazardous condition, Plaintiff's subsequent poisoning and her illness and injuries, Plaintiff has incurred and/or may in the future incur medical expenses for the care and treatment of her illness and injuries.

33. As a direct and proximate result of the individual, joint, and/or several negligence and carelessness of Defendants, the resulting hazardous condition, Plaintiff's subsequent poisoning and her illness and injuries, Plaintiff has been and/or may in the future be hindered and/or prevented from attending to and/or fully performing her usual and customary duties, avocations and/or hobbies.

34. As a direct and proximate result of the individual, joint, and/or several negligence and carelessness of Defendants, the resulting hazardous condition, Plaintiff's subsequent poisoning and her illness and injuries, Plaintiff has been and/or in the future may be prevented from being gainfully employed, resulting in a loss of earning and/or an impairment of her earning capacity.

35. As a direct and proximate result of the individual, joint, and/or several negligence and carelessness of Defendants, the resulting hazardous condition, Plaintiff's subsequent poisoning and her illness and injuries, Plaintiff has been and/or may in the future be required to spend money for household help.

COUNT I - NEGLIGENCE
VERA CORREIA
V.
ALL DEFENDANTS

36. Plaintiff incorporates herein, by reference, the averments contained in the preceding paragraphs, as well as all subsequent paragraphs, as though the same were fully set forth herein.

37. The individual, joint, and/or several negligence and carelessness of Defendants, individually, jointly and/or severally, directly and/or by and through their duly authorized agents, ostensible agents, servants, borrowed servants, workmen and/or employees, acting in the course and scope of such relationship, included the following:

- a. creating a hazardous, about which it knew and/or should have known;
- b. permitting the hazardous condition to exist on the Premises for an excessive period of time;
- c. failing to regularly and/or properly inspect the Premises for such hazardous conditions;
- d. failing to warn business invitees such as Plaintiff of the hazardous condition;

- e. failing to take reasonable measures under the circumstances to protect business invitees such as Plaintiff from a foreseeable risk of injury;
- f. creating and/or permitting a dangerous accumulation of carbon monoxide in an area intended for use by business invites such as Plaintiff;
- g. failing to properly design, install, construct, maintain and/or control the aforesaid heater and its exhaust system;
- h. Failing to hire, employ, or retain agents, ostensible agents, servants, borrowed servants, workmen, employees, contractors, and/or subcontractors who were competent to maintain, manage, modify, renovate, construct, design, control, inspect, clean, and repair the Premises and its conditions fixtures, appliances, and systems;
- i. Failing to properly supervise, train, advise, direct, manage and/or monitor Defendants' agents, ostensible agents, servants, borrowed servants, workmen, employees, contractors, and/or subcontractors, in the performance, execution, and completion of their duties in maintaining, managing, modifying, renovating, constructing, designing, controlling, inspecting, cleaning, and repairing, the Premises and its conditions, fixtures, appliances, and systems;
- j. Violating Defendants' own safety requirements, procedures and policies with regard to the maintenance, management, modification, renovation, construction, design, control, inspection, cleaning, and repair of the Premises;
- k. Failing to comply with industry standards regarding maintenance, management, modification, renovation, construction, design, control, inspection, cleaning, and repair of combustion appliances and their exhaust systems;
- l. Failing to comply with local building codes and regulations, International Property Maintenance Code sections 304.1, 304.10, 304.12 and 306.1 and other applicable laws and regulations of the Commonwealth of Pennsylvania; and
- m. Placing Defendant's pecuniary interests above the safety and wellbeing of the Property's residents such as Plaintiff.

WHEREFORE, Plaintiff, Vera Correia, demands judgment in her favor and against Defendants amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), together with such further relief as may be appropriate.

COUNT II – LOSS OF CONSORTIUM
ARMANDO JORGE CORREIA
V.
ALL DEFENDANTS

38. Plaintiff Husband hereby incorporates the preceding paragraphs of this Complaint as if set forth fully herein at length.

39. Plaintiff Husband has expended specific time, care and/or assistance of his spouse as a direct and proximate result of her illness and injuries as set forth herein.

40. As a direct and proximate result of Plaintiff's illness and injuries, Plaintiff Husband has lost his spouse's society, support, affection, financial assistance and/or companionship, much to her own ongoing suffering.

WHEREFORE, Plaintiff Husband demands judgment in his favor and against favor and against Defendants amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), together with such further relief as may be appropriate.

Date: 8/27/19

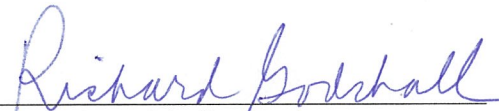
OSTROFF INJURY LAW, PC
Attorneys for Plaintiff

By: Richard A. Godshall
Richard A. Godshall, Esquire - #93467
Ostroff Law, P.C.
518 E. Township Line Road, Suite 100
Blue Bell, PA 19422
(610)279-7000

VERIFICATION

I, Richard Godshall, Esquire, hereby verify that I am an attorney for Plaintiffs, that I am authorized to make this verification on their behalf, and that the statements made in the foregoing Complaint are solely from the file and record of this case as known by Plaintiffs and are true and correct to the best of my knowledge, information and belief.

I understand that the statements therein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.


Richard Godshall, Esquire

Dated: 8/27/19